

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

IN RE: DIET DRUGS	§
(PHENTERMINE, FENFLURAMINE,	§
DEXFENFLURAMINE) PRODUCTS	§ MDL DOCKET NO. 02-20143
LIABILITY LITIGATION	§
_____	§

THIS DOCUMENT APPLIES TO THE FOLLOWING PLAINTIFFS:

1. PAMELA DANOS

MOTION FOR LEAVE TO FILE  
PETITION FOR INTERVENTION

NOW INTO COURT, through undersigned counsel, come intervenors DARLEEN M. JACOBS (hereinafter "JACOBS") and ROBERT G. HARVEY, SR. (hereinafter "HARVEY") of the law firms of Jacobs & Sarrat and Robert G. Harvey, A.P.L.C., who respectfully move this Honorable Court to allow them to intervene into the original matter. As basis for this intervention, the intervenors assert that they have a legal interest in the pending matter and their rights would be prejudiced if not permitted to be included in the pending litigation.

WHEREFORE, DARLEEN M. JACOBS and ROBERT G. HARVEY, SR. respectfully request that this Honorable Court permit them to intervene in the pending litigation.

Respectfully submitted,

\_\_\_\_\_  
DARLEEN M. JACOBS (#7208)  
*A Professional Law Corporation*  
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(504) 522-0155 and (504) 522-3287

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2609 Canal Street, Fifth Floor  
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_____	§

ORDER

Considering the foregoing:

IT IS ORDERED that the intervenors, DARLEEN M. JACOBS and ROBERT G. HARVEY, SR., be permitted to intervene in the above captioned matter.

Philadelphia, Pennsylvania this \_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
JUDGE

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

IN RE: DIET DRUGS	§
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_____	§

PETITION FOR INTERVENTION

The petition of DARLEEN M. JACOBS (hereinafter "JACOBS") and ROBERT G. HARVEY, SR. (hereinafter "HARVEY") of the law firms of Jacobs & Sarraf and Harvey, Jacobson & Glago, A.P.L.C., persons of the full age of majority and practicing attorneys in the City of New Orleans respectfully represents:

1.

Made defendants herein are:

- a) The Defendant, ION LABORATORIES, INC. is a Texas corporation with its principal place of business in Fort Worth, Texas. This Defendant does and did business in Louisiana and developed, manufactured and sold the aforementioned drugs in interstate commerce and in the State of Louisiana.
- b) The Defendant, SMITHKLINE BEECHMAN CORPORATION, is a Tennessee corporation with its principal place of business in Bristol, Tennessee. At all times material hereto, this Defendant was in the business of manufacturing, promoting, marketing, developing, selling and/or distributing the pharmaceutical drug phentermine hydrochloride, also known as Fastin, on information and belief, in the State of Louisiana. This Defendant does and did business in Louisiana and developed, manufactured and sold the aforementioned diet drugs in interstate

commerce and in the State of Louisiana.

- c) The Defendant, MEDEVA PHARMACEUTICALS, INC., d/b/a MEDEVA PHARMACEUTICALS, INC. is a Delaware corporation. At all times material hereto, this Defendant was in the business of manufacturing, promoting, marketing, developing, selling and/or distributing the pharmaceutical known as “Ionamin” Phentermine Resin in the State of Louisiana. All relevant times, Defendant engaged in business in Louisiana and developed, manufactured and sold the aforementioned drugs in interstate commerce and in the State of Louisiana.
- d) The Defendant, FISONS CORPORATION is a Delaware corporation. At all times material hereto, this Defendant was in the business of manufacturing, promoting, marketing, developing, selling and/or distributing the pharmaceutical known as “Ionamin” Phentermine Resin in the State of Louisiana. This Defendant does and did business in Louisiana and developed, manufactured and sold the aforementioned drugs in interstate commerce and in the State of Louisiana.
- e) The Defendant, TEVA PHARMACEUTICALS, U.S.A., INC., the parent company of Gate Pharmaceuticals, is a Delaware corporation. At all relevant times, this Defendant, either individually or in concert within its subsidiary Gate Pharmaceuticals, was engaged in the business of promoting, marketing, manufacturing and/or distributing the pharmaceutical phentermine (including but not limited to the brand name drug “Adipex”). Defendant does business in the State of Louisiana, and at all times relevant it developed, manufactured, and sold phentermine both in interstate commerce and in the State of Louisiana.
- f) The Defendant, GATE PHARMACEUTICALS, A DIVISION OF TEVA

PHARMACEUTICALS USA, INC. is a Delaware corporation with its principal place of business in the State of Pennsylvania. At all times material hereto this Defendant was in the business of manufacturing, promoting, marketing, developing, selling and/or distributing the pharmaceutical drug phentermine hydrochloride, also known as Adipex-P (hereinafter referred to as "Phentermine"). This Defendant does and did business in the State of Louisiana and developed, manufactured and sold the aforementioned drugs in interstate commerce and in the State of Louisiana.

g) The Defendant, RUGBY LABORATORIES, INC., f/k/a as MODERN WHOLESALE DRUG CO., INC. and is now known as WATSON LABORATORIES. Watson Laboratories is a California corporation. At all times material hereto, this Defendant was in the business of manufacturing, promoting, marketing, developing, selling and/or distributing the pharmaceutical phentermine hydrochloride, hereinafter referred to as "phentermine" in the State of Louisiana. This Defendant does and did business in Louisiana and developed, manufactured and sold the aforementioned drugs in interstate commerce and in the State of Louisiana.

h) The Defendant, GENEVA PHARMACEUTICALS, INC. is a Colorado corporation. At all times material hereto, this Defendant was in the business of manufacturing, promoting, marketing, developing, selling and/or distributing the pharmaceutical phentermine hydrochloride, hereinafter referred to as "Phentermine", in the State of Louisiana. This Defendant does and did business in Louisiana and developed, manufactured and sold the aforementioned drugs in

interstate commerce and in the State of Louisiana.

- i) The Defendant, INTERNEURON PHARMACEUTICALS, INC. is a foreign corporation, not authorized to do but doing business in this State, which is a citizen of a state other than Louisiana for purposes of diversity jurisdiction, and which at all relevant times was the manufacturer, marketer and/or seller of dexfenfluramine, fenfluramine and/or fen-phen, which drugs were developed, manufactured, transported to Louisiana, and sold to residents and domiciliaries of Louisiana, in interstate commerce; times material hereto, this Defendant was in the business of manufacturing, promoting, marketing, developing, selling and/or distributing the pharmaceuticals known as Pondimin and Redux. This Defendant does and did business in Louisiana and developed, manufactured and sold the aforementioned drugs in interstate commerce and in the State of Louisiana.
- j) The Defendant, EON LABS MANUFACTURING, INC. is a Delaware corporation. At all times material hereto, this Defendant was in the business of manufacturing, promoting, marketing, developing, selling and/or distributing the pharmaceutical phentermine hydrochloride, hereinafter referred to as “Phentermine”, in the State of Louisiana. This Defendant does and did business in the State of Louisiana and developed, manufactured and sold the aforementioned drugs in interstate commerce and in the State of Louisiana.
- k) The Defendant, WYETH-AYERST PHARMACEUTICALS, INC. f/k/a Wyeth-Ayerst Laboratories, Inc., a division of American Home Products, Inc., is a Delaware Corporation and a subsidiary of American Home Products Corporation. At all times material hereto, this Defendant was in the business of manufacturing,

promoting, marketing, developing, selling and/or distributing the pharmaceuticals known as Pondimin and Redux. This Defendant does and did business in Louisiana and developed, manufactured and sold the aforementioned drugs in interstate commerce and in the State of Louisiana.

- l) The Defendant, WYETH LABORATORIES COMPANY is a subsidiary of American Home Products Corporation, and its principal place of business in Philadelphia, Pennsylvania. At all times material hereto, this Defendant was in the business of manufacturing, promoting, marketing, developing, selling and/or distributing the pharmaceutical drugs fenfluramine, also known as Pondimin (hereinafter referred to as "Pondimin") and dexfenfluramine hydrochloride, also known as Redux (hereinafter referred to as "Redux"). This Defendant does and did business in Louisiana and developed, manufactured and sold the aforementioned drugs in interstate commerce and in the State of Louisiana.
- m) The Defendant, WYETH COMPANY, f/k/a AMERICAN HOME PRODUCTS CORPORATION, is a Delaware corporation. At all times material hereto, this Defendant was in the business of manufacturing, promoting, marketing, developing, selling, and/or distributing the pharmaceutical known as Pondimin and Redux. This Defendant does and did business in Louisiana and developed, manufactured and sold the aforementioned drugs in interstate commerce and in the State of Louisiana.
- n) The Defendant, A. H. ROBINS COMPANY, INC. was a Delaware Corporation with its principal place of business in Richmond, Virginia and a subsidiary of American Home Products Corporation. On August 3, 1998, A. H. Robins



Company was merged into American Home Products and ceased to exist as a separate entity. At all time material hereto, this Defendant was in the business of manufacturing, promoting, marketing, developing, selling and/or distributing the pharmaceutical known as Pondimin. This Defendant does and did business in Louisiana and developed, manufactured and sold the aforementioned drugs in interstate commerce and in the State of Louisiana.

- o) PAMELA DANOS, a person of the full age of majority, residing in the Parish of Jefferson, State of Louisiana, and plaintiff in the above-captioned matter;

who are indebted unto your intervenors for the following reasons to-wit:

2.

On or about November 24, 1997, PAMELA DANOS retained the services of JACOBS and HARVEY, to represent her for her damages associated with and arising out of his use of the prescription diet drugs fenfluramine (a/k/a "Pondimin"), dexfenfluramine (a/k/a Redux) and/or phentermine.

3.

At the time, PAMELA DANOS retained the services of JACOBS and HARVEY she signed an Assignment of Interest and Employment Agreement agreeing to attorney fees of 40% of all sums recovered, and all costs advanced by intervenors on their behalf as more fully set forth in the attached Employment Agreement. See Exhibit "A".

4.

Under the provisions of the contract and revised statutes 37:218, intervenor has acquired an interest in the outcome of this litigation, which interest is opposed to that of petitioners or the defendants herein, to the extent of an assignment of a vested interest in the subject matter of this

lawsuit and intervenor desires to claim those amounts from any recovery that may be made by petitioners herein.

5.

Intervenors provided clients with many hours of legal services, medical assistance, medical advances and advances toward the completion of this claim. On or about March 2, 2004 intervenor, JACOBS, received a letter from PAMELA DANOS discharging intervenor from the handling of her claim and advising she had retained the services of Michael G. Stag, 365 Canal St., Suite 2850, New Orleans, Louisiana, PAMELA DANOS discharged intervenors without just cause. Undersigned has attempted to contact PAMELA DANOS' attorney to no avail.

6.

Intervenors are entitled to 40% attorney fees out of any amount recovered on behalf of PAMELA DANOS, along with costs and expenses, all as reasonable under the premise, to be determined by the trier of fact.

WHEREFORE, intervenors pray that the plaintiff and defendants be served with a copy of this intervention and be required to appear and answer same and after all proceedings there be a judgment in favor of intervenors, DARLEEN J. JACOBS and ROBERT G. HARVEY, SR. and against the plaintiff, PAMELA DANOS, and defendants WYETH COMPANY f/k/a AMERICAN HOME PRODUCTS CORPORATION, WYETH-AYERST PHARMACEUTICALS, INC., f/k/a Wyeth-Ayerst Laboratories, Inc., a division of American Home Products, Inc., WYETH LABORATORIES COMPANY; A. H. ROBINS COMPANY, INC., ION LABORATORIES, INC., SMITHKLINE BEECHMAN CORPORATION, MEDEVA PHARMACEUTICALS, INC., FISIONS CORPORATION, TEVA PHARMACEUTICALS, U.S.A., INC., GATE PHARMACEUTICALS, a division of TEVA PHARMACEUTICALS, USA, RUGBY

LABORATORIES, INC., GENEVA PHARMACEUTICALS, INC., INTERNEURON PHARMACEUTICALS, INC. and EON LABS MANUFACTURING, INC., recognizing intervenors interest in the claim of TIMOTHY DANOS against the named defendants, that intervenors are entitled to 40% of attorney fees plus costs and advances in the amount to be determined by the trier of fact, all as reasonable under the premises; and that the name of intervenors DARLEEN M. JACOBS and ROBERT G. HARVEY, SR. be included on any settlement drafts, settlement checks, compromises of judgments rendered in this matter inasmuch as intervenors were discharged without just cause and that intervenors be reimbursed all attorney fees and costs of this intervention and for all general and equitable relief.

Respectfully submitted,

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PLEASE SERVE:

WYETH-AYERST PHARMACEUTICALS, INC.

f/k/a Wyeth-Ayerst Laboratories, Inc.

&

WYETH LABORATORIES COMPANY

&

A. H. ROBINS COMPANY, INC.

&

AMERICAN HOME PRODUCTS CORPORATION

Through their attorneys of record

Kathleen A. Manning

Deborah Van Meter

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Through their attorney of record

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Through their attorney of record

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GATE PHARMACEUTICALS

A DIVISION OF TEVA PHARMACEUTICALS, USA  
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